



State of New Mexico

Susana Martinez
Governor
July 6, 2012

Kenneth J. Gonzales
U.S. Department of Justice
United States Attorney
District of New Mexico
P.O. Box 607
Albuquerque, NM 87103

Mr. Gonzales,

I am writing in response to your letter, dated June 20, 2012, in which you requested that the Office of the Governor waive the executive and attorney-client privileges as they relate to a Settlement Agreement and Release (the "Agreement") executed by former Governor Richardson on or about October 7, 2007, in which he agreed to pay a sum of money in exchange for a former state employee's agreement not to reveal the existence of the Agreement nor any facts giving rise to the Agreement. I understand that you have reason to believe that former Governor Richardson's General Counsel, Hilary Tompkins, may have played a role in discussing, reviewing, drafting, and/or editing the Agreement.

As you know, I am fully committed to cooperating with federal law enforcement agencies and to appropriately limiting the use of executive privilege. In furtherance of that commitment, I signed Executive Orders 2011-002 and 2001-003, which directed state agencies to cooperate in good faith with any request from federal civil or criminal investigative authorities and limited the use of executive privilege.

The executive and attorney-client privileges should not be used to evade law enforcement efforts or investigations when there is probable cause to believe a crime has been committed and when a state employed attorney was involved in a personal legal matter related to her government client. Accordingly, based on those circumstances, I am willing to grant your request for a limited waiver of those privileges as they may apply to former Governor Richardson's or Ms. Tompkins' involvement with the Agreement described above. To the extent that this office is the

holder of any privileges that may be invoked by former Governor Richardson or Ms. Tompkins as it relates to the Agreement, those privileges are hereby waived. This limited waiver does not include any communications unrelated to the Agreement and is being granted only because of a specific request by federal law enforcement authorities as part of an ongoing criminal investigation.

If you have any questions, feel free to contact my General Counsel, Jessica Hernandez.

Sincerely,

A handwritten signature in black ink, appearing to read "Susana Martinez", written in a cursive style.

Susana Martinez
Governor

SM/jmh